The Honorable City Council  
Palo Alto, California  

Adoption of a Resolution Calling a Special Election for November 8, 2011 for Submittal to the Qualified Electors of the City an Initiative to Undedicate Ten Acres of Existing Parkland in Byxbee Park for Use as a Compost Facility  

RECOMMENDATION  

The City Clerk recommends that the City Council adopt the Resolution Calling a Special Election for November 8, 2011 placing the Green Energy Initiative on the ballot (Attachment A).  

BACKGROUND  

An ordinance petition was circulated regarding the City of Palo Alto Green Energy and Compost Initiative. The petition was certified by the City Clerk on March 24, 2011. The petition received 5,128 votes (over 12% of registered voters) qualifying it for a special election ballot under Palo Alto Charter Article VI, Section 2. The City Council on April 4, 2011 directed Staff to return on August 1, 2011 with a Resolution calling a Special election for November 8, 2011. With most initiative measures the Council has the option to either pass the ordinance itself or call a Special Election. However, since the petition would require the un-dedication of parkland, Article VIII of the Charter requires a majority vote of the electorate. Therefore, Council must submit the matter to a Special Election.  

The following chart establishes the pertinent deadlines for this election:

<table>
<thead>
<tr>
<th>DEADLINE DATE</th>
<th>DOCUMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 16, 2011</td>
<td>Direct Arguments</td>
</tr>
<tr>
<td>August 17, 2011 - August 26, 2011</td>
<td>Ten Day Review Period for Direct Arguments</td>
</tr>
<tr>
<td>August 23, 2011</td>
<td>Impartial Analysis</td>
</tr>
<tr>
<td>August 23, 2011</td>
<td>Rebuttal Arguments</td>
</tr>
</tbody>
</table>

An election information packet containing more detailed information on ballot arguments, deadlines and required forms to be filed with the City Clerk is included as Attachment B.
RESOURCE IMPACT

The Registrar of Voters has estimated the cost for this measure to be approximately $305,100 for the election of November 8, 2011. Additionally, the legal ads that are required to be placed will cost approximately $15,000. These monies have already been budgeted.

ATTACHMENTS:

- RESO Special Election on Compost Initiative (2) (DOC)
- CITY MEASURESguide (DOC)

Department Head: Donna Grider, City Clerk
Resolution No. ________
Resolution of the Council of the City of Palo Alto Calling a Special Election for November 8, 2011 for Submittal to the Qualified Electors of the City an Initiative to Undedicate Ten Acres of Existing Parkland in Byxbee Park for Use as a Compost Facility

WHEREAS, an initiative petition to amend the Palo Alto Comprehensive Plan, Municipal Code and Baylands Master Plan to undedicate approximately 10-acres of existing parkland in the Palo Alto Baylands has been submitted to the City in accordance with the requirements of Article VIII of the Charter of the City of Palo Alto; and

WHEREAS, elections will be held on November 8, 2011, in certain school districts and certain special districts in Santa Clara County; and

WHEREAS, pursuant to Education Code section 5342 and Part 3 of Division 10 of the Elections Code commencing at section 10400, such elections may be partially or completely consolidated.

NOW, THEREFORE, the City Council of the City of Palo Alto does hereby RESOLVES as follows:

SECTION 1. Special Election. Pursuant to Elections Code sections 1405 and 9255 there is called and ordered to be held in the City of Palo Alto, California, on Tuesday, November 8, 2011 a special municipal election. Pursuant to Article IX of the Charter of the City of Palo Alto, this Council orders the following question to be submitted to the voters at the Election:

CITY OF PALO ALTO INITIATIVE MEASURE ________:

<table>
<thead>
<tr>
<th>Shall ten acres of existing parkland in Byxbee Park be undedicated for the exclusive purpose of building a processing facility for yard trimmings, food waste and other organic materials?</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

SECTION 2. Adoption of Measure. The measure to be submitted to the voters is attached to this Resolution as Exhibit “A” and incorporated herein by this reference. If a majority of qualified electors voting on such measure shall vote in favor of City of Palo Alto Initiative Measure “___”, it shall be deemed ratified and shall read as provided in Exhibit “A” attached hereto.
SECTION 3. Notice of Election. Notice of the time and place of holding the election is hereby given, and the City Clerk is authorized, instructed and directed to give further or additional notice of the election in time, form, and manner as required by law.

SECTION 4. Impartial Analysis. Pursuant to California Elections Code section 9280, the City Council hereby directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk on or before August 23, 2011.

SECTION 5. Ballot Arguments. Pursuant to Elections Code section 9286 et seq., August 16, 2011 at 5:30 p.m. shall be the deadline for submission of arguments in favor of, and arguments against, any local measures on the ballot. If more than one argument for and/or against is received, the priorities established by Elections Code section 9287 shall control.

SECTION 6. Rebuttal Arguments. The provisions of Elections Code section 9285 shall control the submission of any rebuttal arguments. The deadline for filing rebuttal arguments shall be August 23, 2011, at 5:30 p.m.

SECTION 7. Consolidation Request. The Council of the City of Palo Alto requests the Governing Body of any such other political subdivision, or any officers otherwise authorized by law, to partially or completely consolidate such elections and to further provide that the canvass be made by any body or official authorized by law to canvass the returns of the election, except that in accordance with Article III, section 4, of the Palo Alto Charter, the City Council must meet and declare the results of said elections; and that this City Council consents to such consolidation.

SECTION 8. Request for County Services. Pursuant to section 10002 of the California Elections Code, the Council of the City of Palo Alto hereby requests the Board of Supervisors of Santa Clara County to permit the Registrar of Voters to render services to the City of Palo Alto relating to the conduct of Palo Alto’s Special Elections which are called to be held on Tuesday, November 8, 2011.

The services shall be of the type normally performed by the Registrar of Voters in assisting the clerks of municipalities in the conduct of elections including, but not limited to, checking registrations, mailing ballots, hiring election officers and arranging for polling places, receiving absent voter ballot applications, mailing and receiving absent voter ballots and opening and counting same, providing and distributing election supplies, and furnishing voting machines.

Subject to approval of the Board of Supervisors of Santa Clara County of the foregoing request, the City Clerk is hereby authorized to engage the services of the Registrar of Voters of the County of Santa Clara to aid in the conduct of said elections including canvassing the returns of said election. Further, the Director of Administrative Services is authorized and directed to pay the cost of said services provided that no payment shall be made for services which the Registrar of Voters is otherwise required by law to perform.

SECTION 9. Transmittal of Resolution. The City Clerk is directed to submit a certified copy of this resolution to the Board of Supervisors of the County of Santa Clara and to the Registrar of Voters.
SECTION 10. The Council finds that this is not a project under the California Environmental Quality Act and, therefore, no environmental impact assessment is necessary.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

____________________________
City Clerk

____________________________
Mayor

APPROVED AS TO FORM:

____________________________
Senior Asst. City Attorney

APPROVED:

____________________________
City Manager

____________________________
Director of Public Works
Petition for Submission to Voters of the City of Palo Alto

The proposed ordinance reads as follows:

**PALO ALTO GREEN ENERGY AND COMPOST INITIATIVE**

The people of the City of Palo Alto do ORDAIN as follows:

**SECTION 1. Findings.** The people find and declare that:

(a) The 126-acre Palo Alto Landfill is scheduled to close in 2012, and is currently dedicated as Byxbee Park.

(b) The closing will terminate the current composting operation at the landfill. Ceasing local composting will cause significant environmental impacts, as Palo Alto ("the City" herein) will have to haul yard trimmings and food waste to locations outside the City for disposal or composting, thereby generating greenhouse gases and depriving Palo Altans of both yard trimming drop-off and local compost.

(c) The incineration of sewage sludge residues at Palo Alto’s regional wastewater treatment plant also generates significant greenhouse gases and creates a hazardous ash residue now disposed of in the Central Valley.

(d) These adverse environmental impacts can be substantially reduced by a facility converting organic wastes by biological or other equally environmentally protective means.

(e) Such technologies would also generate renewable energy and high-quality compost, as well as achieve substantial savings by avoiding the cost of natural gas to operate the incinerator.

(f) Revenue for the City could be generated through the sale of renewable energy and compost, fees for receipt of organic materials, and savings in fuel purchases. Funding for construction could come from sources other than the General Fund.

(g) Locating the facility next to the wastewater treatment plant, as recommended by Palo Alto’s Compost Blue Ribbon Task Force, would avoid transport of sewage sludge and allow other savings. There is no other suitable location in the City.

(h) The facility would require that a small portion of the former landfill not yet developed as usable parkland, approximately ten acres, be removed from park dedication.

(i) Other areas of equal or greater acreage are available to be converted to parkland at the Council’s discretion.

(j) No funding currently exists for development of Byxbee Park. The Council could use the revenue generated as described in Finding (f) for that purpose.

**SECTION 2. Amendment of Comprehensive Plan.**

The land-use designation of the property described below (the "Property" herein) in the Comprehensive Plan shall be changed from Public Parks to Major Institutions/Public facilities:

"All that certain real property situated in the City of Palo Alto, County of Santa Clara, State of California and more particularly described as follows; commencing at a four by four fence post as shown on that Record of Survey filed with the Santa Clara County Recorder in book 258 page 4 and 5 on August 15th 1969; thence from said four by four fence post, South 88° 58' 50" East 415.54 feet; to a point on the southerly line of the Sewage Treatment Plant Parkland exclusion as said exclusion is shown on Exhibit A-2 of Section 22.08.020 of the Palo Alto Municipal Code, said point also being the True Point of Beginning for this description; thence from said True Point of Beginning the following four (4) courses and distances; south 36° 42' 20" East 209.06 feet; south 41° 31' 45" East 276.48 feet; south 53° 12' 33" East 180.61 feet; north 50° 22' 18" East 652.20 feet; thence

**PALO ALTO GREEN ENERGY AND COMPOST INITIATIVE Page 1 of 4**

EXHIBIT "A"
INITIATIVE TO BE SUBMITTED TO THE VOTERS OF PALO ALTO

North 41° 35' 41" West 633.72 feet to a point on said southerly line of the Sewage Treatment Plant Parkland exclusion; thence along said Sewage Treatment Plant Parkland exclusion, South 52° 42' 10" West 671.94 feet, to the True Point of Beginning.

SECTION 3. Amendment of Baylands Master Plan.
The current language in the Section on page 78 of the Baylands Master Plan entitled “Composting Operation” is amended as follows:
(a) The second and third paragraphs under “Background and Function” are deleted.
(b) The section entitled “Future of the Composting Operation” is amended to read as follows:
   “Like the Recycling Center, the original composting operation was located in the Landfill Area and must vacate its current site to accommodate the landfill’s final grading and conversion to (1) a 10-acre site for conversion of organic wastes by biological and/or other equally environmentally protective technology; and (2) pastoral park in the remaining area.”
(c) Page 71 of the Plan is amended to add the following immediately above ‘Mayfield Slough Remnant Marsh’: ‘Revision of the final grading plan may be required to accommodate the new facility referenced on page 78.’
(d) Any language elsewhere in the Plan inconsistent with this ordinance shall be inoperative.

SECTION 4. Amendment of Zoning Ordinance.
The last line of the first box under PUBLIC/QUASI-PUBLIC FACILITY USES in Table 1 of Section 18.28.040 of the Zoning Ordinance is amended to read as follows:
   “...other government agency, or leased by any such agency to another party.”

SECTION 5. Removal from Parkland.
The Property shall be removed from dedication as parkland, for the exclusive purpose of building a facility (“Facility” herein) for converting yard trimmings, food waste, other municipal organics and/or sewage sludge from the regional wastewater treatment plant by biological and/or other environmentally equally protective technology. An illustration of the Property in relation to Byxbee Park is attached as Exhibit “A.”

SECTION 6. Mitigation.
(a) The Facility shall include all feasible methods for mitigating any significant environmental impacts identified during environmental review, including visual, sound and odor.
(b) To avoid impacts on Byxbee Park, access to the Facility shall be by Embarcadero Way.

SECTION 7. Reversion.
Ten years from the passage of this Initiative, the City Council may re dedicate any portion of the Property not utilized for the purposes of this Initiative to parkland.

If the required signatures are obtained, petitioners request that this Initiative be submitted to the voters in 2011.

If any section of this initiative ordinance or part hereof is held by a court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such section or part hereof shall be deemed severable from the remaining sections and shall in no way affect the validity of the remaining sections.
CITY OF PALO ALTO MEASURES

If a majority of the qualified voters voting on a proposed ordinance or measure vote in its favor, the ordinance or measure shall be a valid and binding ordinance of the city. The ordinance or measure shall be considered as adopted upon the date that the vote is declared by legislative body, and shall go into effect 10 days after that date.

City measure means any proposed city charter change, any proposition for the issuance of funding or refunding of bonds of the city, and other questions or propositions submitted to the electors of the city at any election held throughout the entire city.

The following are deadlines, established by the Office of the City Clerk, relating to any measure to appear on the City's 2011 Special Election.

Special Election, November 8, 2011

<table>
<thead>
<tr>
<th>Last Day</th>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday, 8/1/11</td>
<td>Last regularly scheduled City Council Meeting at which a Special Election may be called for November 8, 2011.</td>
</tr>
<tr>
<td>Tuesday, 8/16/11</td>
<td>Last day to file written arguments for or against a measure not to exceed 300 words. Direct arguments may not be changed or withdrawn after this date.</td>
</tr>
<tr>
<td>Wednesday, 8/17/11 – Friday, 8/26/11</td>
<td>Ten day public review period for direct arguments.</td>
</tr>
<tr>
<td>Tuesday, 8/23/11</td>
<td>Last day to file, change, or withdraw rebuttal arguments, not to exceed 250 words. Last day to file Impartial Analysis.</td>
</tr>
<tr>
<td>Wednesday, 8/24/11 -- Friday, 9/2/11</td>
<td>Ten day public review period for rebuttal arguments.</td>
</tr>
</tbody>
</table>

Please Note: This information packet for measures has been prepared to assist the proponents and opponents of measures for the Special Election on November 8, 2011. No one should rely solely on this information but should seek legal counsel.
SUBMISSION OF ARGUMENTS FOR OR AGAINST MEASURES

Arguments will be printed in the Voter Information Portion of the sample ballot.

9281. If not otherwise provided, voters may submit arguments.

If no other method is provided by general law, or, in the case of a chartered city, by the charter or by city ordinance, arguments for and against any city measure may be submitted to the qualified voters of the city pursuant to this article. If a method is otherwise provided by general law, or, in the case of a chartered city, by charter or city ordinance, for submitting arguments as to a particular kind of city measure that method shall control.

(Added by Stats. 1994, c. 920, Sect. 2)

9282. Written arguments.

(a) For measures placed on the ballot by petition, the persons filing an initiative petition pursuant to this article may file a written argument in favor of the ordinance, and the legislative body may submit an argument against the ordinance.

(b) For measures placed on the ballot by the legislative body, the legislative body, or any member of members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associates, may file a written argument for or against any city measure.

(c) No argument shall exceed 300 words in length.

(d) The city elections official shall include the following statement on the front cover, or if none, on the heading of the first page, of the printed arguments: “Arguments in support or opposition of the proposed laws are the opinions of the authors.”

(e) The city elections official shall enclose a printed copy of both arguments with each sample ballot provided that only those arguments filed pursuant to this section shall be printed and enclosed with the sample ballot. The printed arguments are “official matter” within the meaning of Section 13303.

(f) Printed arguments submitted to voters in accordance with this section shall be titled either “Argument In Favor Of Measure ____” or “Argument Against Measure ______,” accordingly, the blank spaces being filled in only with the letter or number, if any, designating the measure. At the discretion of the elections official, the word “Proposition” may be substituted for the word “Measure” in these titles.

(Added by Stats. 2006, c.508, Section 4)

Arguments are limited to 300 words. You may refer to the section in the enclosed “Guidelines for Counting Words” for assistance on counting words. Text is printed in the sample ballot pamphlet in single-spaced, full-justified, standard paragraph format. Only standard bullets will be printed and non-standard bullets will be changed to standard bullets. You may bold, italicize and underline text. After 5:30 p.m. on the argument filing deadline, arguments chosen will be faxed to opposing authors via the fax number listed under the contact information.

Arguments filed with the City Clerk are confidential until after the deadline for the filing of those arguments. The next business day after the deadline, arguments may be viewed by the public or photocopies purchased.

All signatures on arguments and any other related documents must be original signatures. Faxed or photocopies signatures will not be accepted.

9283. Argument not accepted without names.
A ballot argument shall not be accepted under this article unless accompanied by the printed name and signature or printed names and signatures of the author or authors submitting it, or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers, who is the author of the argument.

No more than five signatures shall appear with any argument submitted under this article. In case any argument is signed by more than five authors, the signatures of the first five shall be printed.

(Amended by Stats. 2004, c. 785, Sect. 2)

An author’s name will appear in the sample ballot pamphlet exactly as submitted on the signature line of the Declaration by Author(s) for Arguments. Therefore, the “Type Name as Signed” line must match the signature line. Typed Names are preferred, as they are clearer to read. Only the author’s name will be printed on the name line. Titles, such as, Mr., Mrs., Dr., M.B.A., etc. may be included on the title line. Author’s names and titles must be TYPED on the forms.

9285. Rebuttal arguments.

(a) (1) When an elections official receives an argument relating to a city measure that will be printed in the ballot pamphlet, the elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

(2) The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.

(3) No rebuttal argument may exceed 250 words.

(4) A rebuttal argument relating to a city measure shall be filed with the elections official no later than 10 days after the final filing date for primary arguments.

(5) A rebuttal argument relating to a city measure may not be signed by more than five persons and shall be printed in the same manner as a direct argument and shall immediately follow the direct argument, which it seeks to rebut.

(b) Subdivision (a) applies only if, not later than the day on which the legislative body calls an election, the legislative body adopts its provisions by majority vote, in which case subdivision (a) applies at the next ensuing municipal election and at each municipal election thereafter, unless later repealed by the legislative body in accordance with the procedures of this subdivision.

(Added by Stats. 2006, c.508, Section 5)

Rebuttal arguments will be printed in the Voter Information Portion of the sample ballot.

In contrast to the arguments, those permitted to sign rebuttal arguments need not meet any criteria except that those who sign the rebuttal must either have signed the original argument or be authorized in writing from the authors of the argument to sign the rebuttal argument. The written authorization allowing a person to sign a rebuttal argument must be filed at the time of filing the rebuttal argument. Included in this pamphlet is a form titled “Rebuttal Signer Authorization” to authorize a different author to sign a rebuttal argument.

No more than five author signatures shall be accepted on a rebuttal argument. Authors can sign on separate pages of the Rebuttal Argument Declaration by Author(s). If you have authors sign on separate pages, number the names in the order they are to appear.

An author’s name will appear in the sample ballot pamphlet exactly as submitted on the signature line of the Declaration by Author(s) for Arguments. Therefore, the “Type Name as Signed” line must match the signature line. Typed Names are preferred, as they are clearer to read. Only the author’s name will be printed on the name line. Titles, such as, Mr., Mrs., Dr., M.B.A., etc. may be included on the title line. Author’s names and titles must be TYPED on the forms.
All signatures on rebuttal arguments, authorizations or any other related documents must be original signatures. Faxed or photocopied signatures will not be accepted.

Rebuttal arguments are limited to 250 words. You may refer to the “Guidelines for Counting Words” for assistance on counting words. Text is printed in the sample ballot pamphlet in single-spaced, full-justified, standard paragraph format. Only standard bullets will be printed and non-standard bullets will be changed to standard bullets. You may bold, italicize and underline text.

Rebuttal arguments filed with the City Clerk are confidential until after the deadline for the filing of those rebuttal documents. The next business day after the deadline, rebuttal arguments may be viewed by the public or photocopies purchased.

9286. Final date for arguments.
(a) Based on the time reasonably necessary to prepare and print the arguments and sample ballots and to permit the 10-calendar-day public examination as provided in Article 6 (commencing with Section 9295) for the particular election, the city elections official shall fix a date 14 days from the calling of the election as a deadline, after which no arguments for or against any city measure may be submitted for printing and distribution to the voters, as provided in this article. Arguments may be changed or withdrawn by their proponents until and including the date fixed by the city elections official during the normal business hours of the elections official's office, as posted.
(b) The requirement in subdivision (a) that the period for submitting arguments for inclusion with the sample ballot materials must be 14 days from the calling of the election is not applicable when the election is consolidated with another election pursuant to Part 3 (commencing with Section 10400) of Division 10.
(Added by Stats. 2009, c.549, Sect. 2)

9287. Elections official to select if more than one argument.
If more than one argument for or more than one argument against any city measure is submitted to the city elections official within the time prescribed, he or she shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument the city elections official shall give preference and priority, in the order named, to the arguments of the following:

(a) The legislative body, or member or members of the legislative body authorized by that body.

(b) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(c) Bona fide associations of citizens.

(d) Individual voters who are eligible to vote on the measure.
(Added by Stats. 1994, c. 920, Sect. 2)

Chapter 7. General Provisions

9601. Arguments may be withdrawn.
Notwithstanding any other provisions of this code, whenever any ballot arguments for or against any measure submitted to the voters for approval are authorized, these arguments may be withdrawn by their proponents at any time prior to and including the final date fixed for filing arguments.
(Added by Stats. 1994, c. 920, Sect. 2)
NO USE OF BOARD OR COMMISSION TITLES IN BALLOT ARGUMENTS

The Palo Alto Municipal Code Section 2.40.080 states: “No city board or commission member may use his or her board or commission title when signing a ballot argument for or against an ordinance or measure. If an argument is submitted to the city clerk with such a title in the signature, the title shall be omitted from the ballot argument signature.”

PUBLIC EXAMINATION OF ARGUMENTS AND IMPARTIAL ANALYSIS

9295. Public examination of arguments, ordinance and analysis.

(a) The elections official shall make a copy of the material referred to in Sections 9223, 9280, 9281, 9282, and 9285 available for public examination in the election official’s office for a period of 10 calendar days immediately following the filing deadline for submission of those materials. Any person may obtain a copy of the materials from the elections official for use outside of the elections official’s office. The election official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10 calendar day public examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10 calendar day public examination period.

(2) A peremptory write of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The elections official shall be named as respondent, and the person or official who authored the material in question shall be named as real parties in interest. In the case of the elections official bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

(Amended by Stats. 2007, c. 286 Sect. 3)

FPPC Financial Compliance and Forms

There are various forms that are required to be filed in connection with a measure committee. You may obtain the necessary forms and manuals at the Fair Political Practices Commission (FPPC) website www.fppc.ca.gov. The City Clerk is your local filing officer, but may not provide technical assistance you need. For technical assistance, please call FPPC at (866)ASK-FPPC.